

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JEROME KELLEY

Plaintiff,

v.

**CRACKER BARREL OLD
COUNTRY STORE, INC.**

Defendant.

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Civil Case No. 2:07-CV-820-MEF

**REPLY IN SUPPORT OF
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

On April 28, 2008 Defendant Cracker Barrel Old Country Store filed its Motion for Summary Judgment and Brief in Support of same (“Defendant’s Motion”). See Docket Entries 26-27. On April 29, 2008, the Court ordered Plaintiff Jerome Kelley to file any opposition to Defendant’s Motion on or before May 13, 2008. See Docket Entry 28. To date, Plaintiff has failed to file any opposition to Defendant’s Motion, nor has Plaintiff sought an extension of the Court’s deadline. Accordingly, Cracker Barrel respectfully requests that its Motion for Summary Judgment be granted. See Fed. R. Civ. P. 56(c) (Summary

judgment is entered where it is shown “that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.”).

Respectfully submitted this 16th day of May, 2008.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC**

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/s/ David E. Gevertz

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing
**REPLY IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT** with the Clerk of the Court by using the CM/ECF system which will
send notification of such filing to the following CM/ECF counsel of record:

Keith Anderson Nelms, Esq.
Law Offices of Jay Lewis, LLC
847 So. McDonough St., #100, Montgomery, AL 36104
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This 16th day of May, 2008.

/s/ David E. Gevertz
David E. Gevertz, Esq.
Georgia Bar No. 292430